



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

C/O: Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Room W64-232
Washington, DC 20590

August 6, 2008

The Honorable John H. Hill
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Hill:

The Motor Carrier Safety Advisory Committee (MCSAC) accepted Task 07-01, the National Transportation Safety Board (NTSB) Recommendation on the Federal Motor Carrier Safety Administration's (FMCSA) Safety Fitness Methodology, at its May 2007 meeting. The Workgroup on Task 07-01, chaired by Mr. Clyde Hart, was created to conduct work and submit a report for Committee review and approval.

The Workgroup was asked to:

- Consider the potential safety benefits and operational feasibility (i.e., Federal and State resources needed for additional appeals or other follow-up activities) of changing the safety fitness methodology so that if the carrier receives an unsatisfactory rating for the vehicle or driver factor, the overall rating is unsatisfactory.
- Make recommendations on whether the NTSB recommended safety fitness methodology could fit into the Comprehensive Safety Analysis (CSA) 2010 initiative.
- Submit a report to the Committee outlining findings and recommendations.

The Workgroup met in person and through conference calls and conducted work through e-mail. At the MCSAC June 2008 meeting, the Workgroup presented the Committee with a report outlining its findings and recommendation. The Committee unanimously approved the report and recommended that FMCSA implement the NTSB proposal as part of the CSA 2010 initiative.

I respectfully submit the report to FMCSA for consideration.

Sincerely,

//signed//

David R. Parker
Chair
Motor Carrier Safety Advisory Committee

Attachment

**NATIONAL TRANSPORTATION SAFETY BOARD
RECOMMENDATION
ON THE FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION'S
SAFETY FITNESS METHODOLOGY**

Report From

Workgroup on Task 07-01

to the

Motor Carrier Safety Advisory Committee

of the

**Federal Motor Carrier Safety Administration
U.S. Department Of Transportation**

August 6, 2008

At its May 2007 meeting, the Motor Carrier Safety Advisory Committee (MCSAC) unanimously accepted Task 07-01: National Transportation Safety Board (NTSB) Recommendation on the Federal Motor Carrier Safety Administration's (FMCSA) Safety Fitness Methodology. Work group 07-01 was established and tasked with the following:

- a) Consider the potential safety benefits and operational feasibility (i.e., Federal and State resources needed for additional appeals or other follow-up activities) of changing the safety fitness methodology so that if the carrier receives an unsatisfactory rating for the vehicle or driver factor, the overall rating is unsatisfactory.
- b) Make recommendations on whether the NTSB recommended safety fitness methodology could fit into the Comprehensive Safety Analysis (CSA) 2010 initiative.
- c) Submit a report to the Federal Motor Carrier Safety Administration outlining findings and recommendations.

The Workgroup met in person and conducted work through conference calls and email correspondence. This report was presented at the MCSAC June 2008 meeting. The Committee unanimously approved the report on June 4, 2008, and recommended that the NTSB proposal be implemented as part of the CSA 2010 initiative.

Discussion

The NTSB investigated two motorcoach crashes in 1995 and 1997. The crashes led to several fatalities and injuries. After completing its investigation, the NTSB concluded that the causal factors (driver fatigue and poorly maintained or out-of-adjustment brakes) are factors that have the potential for catastrophic consequences. The NTSB further found that motorcoach passengers should receive pre trip safety information prior to any trip. Finally, the NTSB recommended that FMCSA change its safety fitness rating methodology such that adverse vehicle and driver performance-based data alone are sufficient to result in an overall unsatisfactory safety rating for a carrier (Safety Recommendation H-99-06). In its recommendation the NTSB opined that if, as a result of a safety audit, the carrier receives an unsatisfactory rating for either the vehicle or driver factor, the overall carrier rating should be unsatisfactory.

The Administrator asked the 07-01 Workgroup to examine this recommendation and to: 1) determine the potential safety benefits and operational feasibility of changing the safety fitness methodology such that if the carrier receives an unsatisfactory rating for the vehicle or driver factor, the overall rating is unsatisfactory, and 2) make a recommendation as to whether the NTSB recommended safety fitness methodology could fit into CSA 2010.

The CSA 2010 initiative is FMCSA's new approach to the Agency's compliance and enforcement activities. CSA 2010 will establish an operational model to determine the safety fitness of every motor carrier and develop streamlined approaches to improve the performance of unsafe carriers and their drivers. This initiative will help FMCSA, with its partners in government and industry, achieve its goal of more efficiently reducing commercial motor vehicle (CMV) crashes, fatalities, and injuries.

Under CSA 2010, carrier interventions will be progressive – increasing in severity and level of interaction with motor carriers and drivers. The approach entails using interventions to reach a larger segment of the motor carrier industry. The intervention process will be triggered by: 1) deficient measures in one or more Behavioral Analysis and Safety Improvement Categories (BASIC), 2) a high crash indicator, 3) a complaint or 4) a fatal crash. Intervention selection will be influenced by safety performance, hazardous material or passenger carrier status, and intervention history.

Development of CSA 2010 will begin with an operational model test in the states of New Jersey, Georgia, Missouri and Colorado. The test will continue for 30 months into mid 2010. During the first phase of the operational model test only three BASICS will be measured: 1) Unsafe Driving, 2) Fatigued Driving, and 3) Vehicle Maintenance.

Findings

The members of Workgroup 07-01 unanimously support implementing the NTSB recommendation. The Workgroup identified two possible means by which the recommendation could be implemented. The two alternatives are: 1) FMCSA could begin to implement the recommendation through an interim final rule (IFR), or 2) FMCSA could make the implementation of this recommendation a part of the CSA 2010 initiative.

The initiation of an IFR to implement the recommendation could allow FMCSA to implement the recommendation on an expedited basis and could result in immediate and effective improvement in driver and vehicle safety. However, it would be difficult to justify an IFR given that this recommendation was first made in 1999. Furthermore, the normal rule-making process is time consuming. FMCSA would need to issue an Advance Notice of Proposed Rulemaking (ANPRM), followed by a Notice of Proposed Rulemaking (NPRM), and finally promulgation of a Final Rule (FR) that could be challenged in Federal Court with the attendant time delays occasioned by any litigation.

Implementation of the NTSB recommendation as part of CSA 2010 would also take time, per the CSA 2010 implementation schedule. In addition, the current schedule could be extended, as the Agency must also address several complex legal and practical issues before it can fully implement CSA 2010. Among the issues that must be addressed are 1) the privacy rights of individuals and companies concerning prior driver behaviors, 2) the implementation of an employer notification system (ENS), and 3) State institutional barriers.

The CSA 2010 operational test model will address the BASICS criteria with which the NTSB recommendation is most concerned: those of unsafe and fatigued drivers and vehicle maintenance. Additionally, the CSA 2010 implementation schedule should allow sufficient time for the FMCSA to address the privacy issues that will be a part of the CSA 2010 and that may impinge on the NTSB recommendation.

Recommendation

The Workgroup resolves that the NTSB recommendation should be incorporated as part of CSA 2010.

APPENDIX 1

Motor Carrier Safety Advisory Committee (MCSAC) Task Statement

Task #07-01

I. **TASK TITLE**

National Transportation Safety Board Recommendation (NTSB): FMCSA's Safety Fitness Methodology

II. **BACKGROUND**

The NTSB investigated two accidents in 1995 and 1997 that involved motorcoach accidents. On October 15, 1995, a 1989 Eagle Motorcoach operated by Hammond Yellow Coach Line, Inc., (Hammond) and occupied by a driver and 39 members of a high school booster club overturned when it entered an Interstate (I)-70 exit ramp in Indianapolis, IN. Two passengers sustained fatal injuries, 13 sustained serious injuries, and 26 received minor injuries. On July 29, 1997, a 1985 TMC (Transportation Manufacturing Corporation) motorcoach operated by Rite-Way Transportation, Inc. (Rite-Way) and occupied by a driver and 34 members of the Pathways to Freedom tour group drifted off the side of I-95 near Stony Creek, Virginia, and down an embankment into the Nottoway River, where it came to rest on its left side. One passenger sustained fatal injuries, the driver and 3 passengers sustained serious injuries, and 28 passengers sustained minor injuries. These accidents involved factors that NTSB identified as issues in accidents and that have the potential for catastrophic consequences, namely driver fatigue and poorly maintained or out-of-adjustment brakes. The Stony Creek accident also highlighted the need for motorcoach passengers to receive pretrip safety information, such as the emergency evacuation briefing presently required for commercial air passengers. The NTSB recommends, in Safety Recommendation H-99-06, that the Federal Motor Carrier Safety Administration change the safety fitness rating methodology so that adverse vehicle and driver performance-based data alone are sufficient to result in an overall unsatisfactory rating for the carrier.

III. **PROBLEM STATEMENT**

The NTSB believes that if, as the result of a safety audit, the carrier receives an unsatisfactory rating for either the vehicle or driver factor, the overall rating should be unsatisfactory. FMCSA is taking a new approach to the way it carries out its compliance and enforcement activities through the Comprehensive Safety Analysis (CSA) 2010 Initiative, and believes that the associated activities of CSA 2010 should address this recommendation. Safety Recommendation H-99-6 would be addressed directly by a new operational model that focuses on the unsafe behavior of both carriers and drivers to determine safety fitness. The new safety fitness rating model will be separated from the compliance review and based on an objective measure of a driver's or carrier's safety performance data. Under the new system, ratings would be issued to all drivers and carriers about which there is sufficient data.

IV. TASK

The Committee should perform the following tasks:

- a) Consider the potential safety benefits and operational feasibility (i.e., Federal and State resources needed for additional appeals or other follow-up activities) of changing the safety fitness methodology so that if the carrier receives an unsatisfactory rating for the vehicle or driver factor, the overall rating is unsatisfactory.
- b) Make recommendations on whether the NTSB recommended safety fitness methodology could fit into CSA 2010.
- c) Submit a report to the Federal Motor Carrier Safety Administration outlining findings and recommendations.

V. ESTIMATED TIME TO COMPLETE TASK

The Committee should submit a report to the Federal Motor Carrier Safety Administration outlining findings and recommendations at the September 2007 meeting.

VI. FMCSA TECHNICAL REPRESENTATIVE

Gary Woodford, Program Manager, CSA 2010, Phone: 202-366-2978,
Email: Gary.Woodford@dot.gov .

Attachment:

February 26, 1999 Letter to FMCSA from NTSB issuing Safety Recommendation H-99-06

APPENDIX 2

**Work Group 07-01
National Transportation Safety Board
Recommendation on the
Federal Motor Carrier Safety Administration's
Safety Fitness Methodology**

Clyde Hart, Chair, *American Bus Association*

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Michael Greene, *Columbia Machine Works.*

David Osiecki, *American Trucking Associations*

Steven Owings, *Road Safe America*

Robert Powers, *Michigan State Police*

Judith Stone, *Advocates for Highway and Auto Safety*

Roger Vanderpool, *Arizona Department of Public Safety*